

REMARKS

This Application has been carefully reviewed in light of the Final Office Action mailed December 10, 2008. At the time of the Final Office Action, Claims 10-18 were pending in this Application. Claims 10-18 were rejected. Claims 1-9 were previously cancelled without prejudice or disclaimer. Claim 17 has been amended to further define various features of Applicant's invention. Applicant respectfully requests reconsideration and favorable action in this case.

Claim Objections

Claim 17 was objected due to the recitation of certain phrases, which the Examiner recommended be replaced with alternative language. Applicant has amended Claim 17 to overcome this objection.

Rejections under 35 U.S.C. §103

Claims 10-18 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 5,832,429 issued to Michele B. Gammel et al. ("*Gammel*"), in view of U.S. Patent 5,852,801 issued to Hsiao-Wuen Hon et al. ("*Hon*"). Applicant respectfully traverses and submits the cited art combinations, even if proper, which Applicant does not concede, does not render the claimed embodiment of the invention obvious.

In order to establish a prima facie case of obviousness, the references cited by the Examiner must disclose all claimed limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). Even if each limitation is disclosed in a combination of references, however, a claim composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art. *KSR Int'l. Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1741 (2007). Rather, the Examiner must identify an apparent reason to combine the known elements in the fashion claimed. *Id.* "Rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *Id.*, citing *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006). Finally, the reason must be free of the distortion caused by hindsight bias and may not rely on

ex post reasoning. *KSR*, 127 S.Ct. at 1742. In addition, evidence that such a combination was uniquely challenging or difficult tends to show that a claim was not obvious. *Leapfrog Enterprises, Inc. v. Fisher-Price, Inc. and Mattel, Inc.*, 485 F.3d 1157, 1162 (Fed. Cir. 2007), citing *KSR*, 127 S.Ct. at 1741.

The Examiner considers that *Gammel* and *Hon* render all limitations of all independent claims obvious. Applicants respectfully disagree, because *Gammel* and *Hon* do not teach all limitations of the independent claims, it is not technically possible to modify *Gammel* with the specific teaching from *Hon* suggested by the Examiner, and, if such a modification would be made nevertheless, one having ordinary skill in the art would not arrive at the limitations of the independent claims.

Gammel discloses that a new name may be entered into a speed dial list at position 78 in Figure 4. *Gammel*, column 6, lines 5-8. This is done by saying “Add entry”. *Gammel*, column 6, lines 8-10. This brings the user to position 80 in Figure 4. The subsequent procedure is described by Figure 5 in *Gammel*. Therefore, upon non-recognition of a voice utterance and via the voice recognition system, the user is not provided with an opportunity to immediately assign the non-recognized voice utterance to a new command, rather the user must say “add entry” and then enters the subsequent procedure described by Figure 5. Here, the user is not provided with an opportunity to immediately assign the non-recognized voice utterance to a new command, rather, in addition to other tests, the entry (name) must first be repeated several times before a number is assigned to the new entry (name). *Gammel*, column 8, lines 23-30. The Examiner considers that *Gammel* discloses all limitations of claim 1 except for **upon non-recognition** of a voice utterance, **immediately** assign the voice utterance to a new command. Office action, page 4, first paragraph.

The Examiner considers that *Hon* teaches one of ordinary skill in the art to provide an opportunity to immediately assign an unrecognized voice utterance to a new command, and that this renders the independent claims obvious. Applicants respectfully disagree for the following reasons.

Firstly, *Hon* does not teach to provide an opportunity to immediately assign an unrecognized voice utterance to a new command. As explained in the last response, *Hon*

teaches that an unrecognized word may be added to a lexicon, nothing more. It is unclear how this would apply to a speed dial system for a telephone.

Secondly, one of ordinary skill in the art would not modify *Gammel* by immediately assign an unrecognized voice utterance to a new command, because this would make no technical sense and would render the system in *Gammel* in-operational. When modifying *Gammel* with the teachings of *Hon*, one of ordinary skill would not add a new voice recognizer, but would use the voice recognizer already present in *Gammel*, because the “lexicon” in *Hon* corresponds to the speed dial list in *Gammel*, and the recognizer in *Gammel* must remain to recognize all other voice utterances. One of ordinary skill would also maintain the procedures illustrated by the Figures in *Gammel*, because the system must still be able to add, modify, delete, review, and do all other steps relating to voice recognition. In other words, the voice recognizing procedures of *Gammel* must be maintained in large to be able to render the device in *Gammel* operational. Therefore, when one of ordinary skill in the art would modify *Gammel* to, **upon non-recognition** of a voice utterance, **immediately** assign the voice utterance to a new command, he would render the system disclosed by *Gammel* in-operational. The system would not technically work with such a modification, because different procedural steps must be taken upon non-recognition of a voice utterance depending on where a user is in the system disclosed by *Gammel*. He can not allow the system to jump to step 82 in Figure 4 of *Gammel* upon detecting a non-recognized voice utterance, because he can not assume that a non-recognized voice utterance is a new entry in the speed dial list. For example, it could be a non-recognized command such as “delete.” Therefore, one of ordinary skill would not modify *Gammel* to, **upon non-recognition** of a voice utterance, **immediately** assign the voice utterance to a new command (name and number in the speed dial list). This is naturally so, because the system in *Gammel* concerns the enrollment of names in a speech recognition database used in speed dialing. *Gammel*, column 1, lines 11-12. The system and procedures disclosed in *Gammel* can not be modified to add all unrecognized words as new names in the speed dial database. For example, an unrecognized word in the “delete” procedure (steps 96-104 in Figure 4) can not be stored as a new entry. Therefore, such a modification as suggested by the Examiner would make no technical sense and would render the system in *Gammel* in-operational.

Thirdly, if one of ordinary skill in the art would nevertheless modify *Gammel* by immediately assigning an unrecognized voice utterance to a new command and additionally invent a solution to render the system in *Gammel* operational, then he would not arrive at all the limitations of the present independent claims. As admitted by the Examiner and explained above, such a modified system would first check if the unrecognized voice utterance is similar to existing names, or too short, or on the speed dial list, and then the user must repeat this unrecognized voice utterance several times, before a telephone number is assigned. All these operational steps would be made before a new command is assigned. Additionally, it is not clear where or how the modification (immediately assigning an unrecognized voice utterance to a new command) could be added to the disclosed system and procedures in *Gammel* without rendering the system in-operational. Therefore, one of ordinary skill in the art would not arrive at something falling within the scope of the independent claims.

The rejection under 35 U.S.C. §103(a) is respectfully traversed because *Gammel* and *Hon* do not teach all limitations of the independent claims, it is not technically possible to modify *Gammel* with the specific teaching suggested by the Examiner from *Hon*, and, if such a modification would be made nevertheless, one having ordinary skill in the art would not arrive at the limitations of the independent claims. It is therefore respectfully requested that the rejection under 35 U.S.C. §103(a) is withdrawn. Applicant respectfully submits that the dependent Claims are allowable at least to the extent of the independent Claim to which they refer, respectively. Thus, Applicant respectfully requests reconsideration and allowance of the dependent Claims. Applicant reserves the right to make further arguments regarding the Examiner's rejections under 35 U.S.C. §103(a), if necessary, and do not concede that the Examiner's proposed combinations are proper.

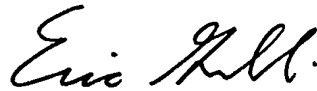
CONCLUSION

Applicant has now made an earnest effort to place this case in condition for allowance in light of the remarks set forth above. Applicant respectfully requests reconsideration of the pending claims.

Applicant believes there are no fees due at this time, however, the Commissioner is hereby authorized to charge any fees necessary or credit any overpayment to Deposit Account No. 50-2148 of Baker Botts L.L.P.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicant's attorney at 512.322.2689.

Respectfully submitted,
BAKER BOTTS L.L.P.
Attorney for Applicant



Eric M. Grabski
Reg. No. 51,749

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SEND CORRESPONDENCE TO:
Baker Botts L.L.P.
CUSTOMER ACCOUNT NO. **31625**
512.322.2689
512.322.8383 (fax)